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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**SARAH MARIE PEARCE,
aka SARAH MARIE LOPEZ
11412 Ming Court
El Cajon, CA 92021**

Registered Nurse License No. 712602

Respondent.

Case No. 2012-686.

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 3, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2012-686 against Sarah Marie Pearce, also known as Sarah Marie Lopez (Respondent) before the Board of Registered Nursing. (A copy of the Accusation attached as Exhibit A.)

2. On or about September 18, 2007, the Board of Registered Nursing (Board) issued Registered Nurse License No. 712602 to Respondent. The Registered Nurse License expired on June 30, 2011, and has not been renewed. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

1 3. On or about May 3, 2012, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 2012-686, Statement to Respondent, Notice of Defense, Request for
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to California Code of Regulations, title 16,
5 section 1409.1, is required to be reported and maintained with the Board. Respondent's address
6 of record was and is:

7 11412 Ming Court
8 El Cajon, CA 92021

9 4. Service of the Accusation was effective as a matter of law under the provisions of
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
11 124.

12 5. On or about May 17, 2012, and May 18, 2012, the aforementioned documents served
13 by First Class mail and certified mail, respectively, were returned by the U.S. Postal Service
14 marked "Return to Sender - Attempted Not Known - Unable to Forward." The address on the
15 documents was the same as the address on file with the Board.

16 6. On or about May 15, 2012, Respondent was served by Certified and First Class Mail
17 copies of the Accusation No. 2012-686, Statement to Respondent, Notice of Defense, Request for
18 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
19 an alternate address for Respondent which was:

20 12190 Cuyamaca College Drive #1505
21 El Cajon, CA 92019

22 7. On or about May 29, 2012, the aforementioned documents were returned by the U.S.
23 Postal Service marked "Return to Sender - Unable to Forward."

24 8. Respondent failed to maintain an updated address with the Board and the Board has
25 made attempts to serve the Respondent at the address on file and at an alternate address.
26 Respondent has not made herself available for service and therefore, has not availed herself of her
27 right to file a notice of defense and appear at hearing.

28 ///

9. Government Code section 11506 states, in pertinent part:

(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

10. Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2012-686.

11. California Government Code section 11520 states, in pertinent part:

(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.

12. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 2012-686, finds that the charges and allegations in Accusation No. 2012-686, are separately and severally, found to be true and correct by clear and convincing evidence.

13. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$762.50 as of June 13, 2012.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Sarah Marie Pearce, also known as Sarah Marie Lopez has subjected her Registered Nurse License No. 712602 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:

Respondent has subjected her registered nurse license to discipline under sections 490 and 2761, subdivision (f) of the Code in that on or about June 15, 2011, in a criminal proceeding entitled *People of the State of California v. Sarah Marie Lopez, aka Sarah Marie Pearce*, in San Diego County Superior Court, case number C305772, Respondent was convicted on her plea of guilty to violating Penal Code section 484, petty theft, a misdemeanor, a crime that is substantially related to the qualifications, duties, and functions of a registered nurse.

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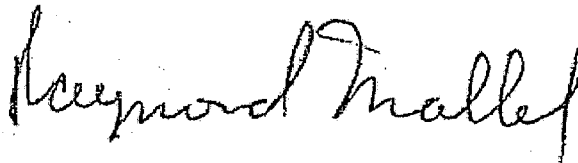
ORDER

IT IS SO ORDERED that Registered Nurse License No. 712602, heretofore issued to Respondent Sarah Marie Pearce, also known as Sarah Marie Lopez, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on OCTOBER 12, 2012.

It is so ORDERED SEPTEMBER 14, 2012



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

DOJ Matter ID: SD2012801928

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
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2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
AMANDA DODDS
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7 Facsimile: (619) 645-2061
Attorneys for Complainant
8

9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2012 - 686

13 **SARAH MARIE PEARCE,**
14 **aka SARAH MARIE LOPEZ**
11412 Ming Court
El Cajon, CA 92021

A C C U S A T I O N

15 **Registered Nurse License No. 712602**

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about September 18, 2007, the Board of Registered Nursing issued Registered
24 Nurse License Number 712602 to Sarah Marie Pearce, also known as Sarah Marie Lopez
25 (Respondent). The Registered Nurse License was in full force and effect at all times herein. The
26 Registered Nurse License expired on June 30, 2011, and has not been renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board

1 may inquire into the circumstances surrounding the commission of the crime in order
2 to fix the degree of discipline or to determine if the conviction is substantially related
3 to the qualifications, functions, and duties of the licensee in question.

4 As used in this section, "license" includes "certificate," "permit," "authority,"
5 and "registration."

6 9. Section 2761 of the Code states:

7 The board may take disciplinary action against a certified or licensed nurse or
8 deny an application for a certificate or license for any of the following:

9 (a) Unprofessional conduct, which includes, but is not limited to, the
10 following:

11

12 (f) Conviction of a felony or of any offense substantially related to the
13 qualifications, functions, and duties of a registered nurse, in which event the record of
14 the conviction shall be conclusive evidence thereof.

15

16 10. Section 2765 of the Code states:

17 A plea or verdict of guilty or a conviction following a plea of nolo contendere
18 made to a charge substantially related to the qualifications, functions and duties of a
19 registered nurse is deemed to be a conviction within the meaning of this article. The
20 board may order the license or certificate suspended or revoked, or may decline to
21 issue a license or certificate, when the time for appeal has elapsed, or the judgment of
22 conviction has been affirmed on appeal or when an order granting probation is made
23 suspending the imposition of sentence, irrespective of a subsequent order under the
24 provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his
25 or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
26 guilty, or dismissing the accusation, information or indictment.

27 REGULATORY PROVISIONS

28 11. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the
qualifications, functions or duties of a registered nurse if to a substantial degree it
evidences the present or potential unfitness of a registered nurse to practice in a
manner consistent with the public health, safety, or welfare. Such convictions or acts
shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations
listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

1 (c) Theft, dishonesty, fraud, or deceit.

2 (d) Any conviction or act subject to an order of registration pursuant to Section
3 290 of the Penal Code.

4 12. California Code of Regulations, title 16, section 1445 states:

5

6 (b) When considering the suspension or revocation of a license on the grounds
7 that a registered nurse has been convicted of a crime, the board, in evaluating the
8 rehabilitation of such person and his/her eligibility for a license will consider the
9 following criteria:

10 (1) Nature and severity of the act(s) or offense(s).

11 (2) Total criminal record.

12 (3) The time that has elapsed since commission of the act(s) or offense(s).

13 (4) Whether the licensee has complied with any terms of parole, probation,
14 restitution or any other sanctions lawfully imposed against the licensee.

15 (5) If applicable, evidence of expungement proceedings pursuant to Section
16 1203.4 of the Penal Code.

17 (6) Evidence, if any, of rehabilitation submitted by the licensee.

18 COST RECOVERY

19 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
20 administrative law judge to direct a licensee found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case.

23 CAUSE FOR DISCIPLINE

24 (June 15, 2011 Criminal Conviction for Theft on October 25, 2010)

25 14. Respondent has subjected her registered nurse license to discipline under sections 490
26 and 2761, subdivision (f) of the Code in that she was convicted of a crime that is substantially
27 related to the qualifications, duties, and functions of a registered nurse. The circumstances are as
28 follows:

a. On or about June 15, 2011, in a criminal proceeding entitled *People of the
State of California v. Sarah Marie Lopez, aka Sarah Marie Pearce*, in San Diego County

1 Superior Court, case number C305772, Respondent was convicted on her plea of guilty to
2 violating Penal Code section 484, petty theft, a misdemeanor.

3 b. As a result of the conviction, on or about June 15, 2011, Respondent was
4 granted summary probation for three years, and ordered to serve two days in custody, with credit
5 for two days. Respondent was further ordered to submit to a Fourth Amendment waiver until the
6 end of her probation (June 14, 2014), pay fees, fines, and restitution in the amount of \$523, and to
7 stay away from the Grossmont Center Wal-Mart in La Mesa.

8 c. The facts and circumstances that led to the conviction are that on or about
9 the evening of October 25, 2010, an asset protection officer with a La Mesa Wal-Mart store,
10 observed Respondent behaving suspiciously. Respondent selected items from the cosmetics
11 department, put them into her shopping cart, and went to the outside garden department. While
12 there, Respondent removed stuffing from a black cosmetic bag she had obtained on the sales
13 floor, and then concealed the cosmetic items in the bag, along with several bras and panties she
14 had previously selected. Respondent then proceeded to the Men's Department where she
15 abandoned the shopping cart, removed the black cosmetic bag containing the concealed items,
16 and departed the Wal-Mart without paying for the merchandise. Respondent was intercepted
17 outside of the Wal-Mart and detained in their security office. The estimated value of the stolen
18 merchandise was \$194. The La Mesa Police Department arrived and took Respondent into
19 custody. Respondent was given a Notice to Appear citation. After failing to appear at her
20 arraignment, a warrant was issued. Respondent was arrested at her residence by the San Diego
21 County Sheriff's Department on March 8, 2011.

22 DISCIPLINARY CONSIDERATIONS

23 15. To determine the degree of discipline, if any, to be imposed on Respondent, pursuant
24 to California Code of Regulations, title 16, section 1445, subdivision (b), Complainant alleges
25 that on or about November 18, 1996, in a prior criminal proceeding entitled *People of the State of*
26 *California v. Sarah Lopez*, in San Diego County Superior Court, case number M726616,
27 Respondent was convicted on her plea of guilty to violating Penal Code section 484, petty theft, a
28 misdemeanor. On or about January 17, 2006, the court granted Respondent's Petition for Relief,

1 and ordered the conviction be set aside and the charges dismissed pursuant to Penal Code section
2 1203.4

3 **PRAYER**

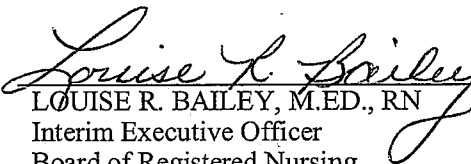
4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Board of Registered Nursing issue a decision:

6 1. Revoking or suspending Registered Nurse License Number 712602, issued to Sarah
7 Marie Pearce, also known as Sarah Marie Lopez;

8 2. Ordering Sarah Marie Pearce to pay the Board of Registered Nursing the reasonable
9 costs of the investigation and enforcement of this case, pursuant to Business and Professions
10 Code section 125.3;

11 3. Taking such other and further action as deemed necessary and proper.
12
13

14 DATED: May 03, 2012


15 LOUISE R. BAILEY, M.ED., RN
16 Interim Executive Officer
17 Board of Registered Nursing
18 Department of Consumer Affairs
19 State of California
20 Complainant
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